

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

KIMBERLY NEALIS)	Case Number
)	
Plaintiff,)	
)	
vs.)	CIVIL COMPLAINT
)	
NCO FINANCIAL SYSTEMS, INC.)	
)	JURY TRIAL DEMANDED
Defendant)	
)	

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Kimberly Nealis, by and through her undersigned counsel, Bruce Warren of Warren & Vullings, LLP, complaining of Defendant, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Kimberly Nealis, is an adult natural person and brings this action for actual and statutory damages and other relief against Defendant for violations to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15. U.S.C. § 1692k(d) and 28 U.S.C. §1337.

3. Venue in this District is proper in that the Defendant transacts business in this district and the Defendant’s principal place of business is in this district.

III. PARTIES

4. Plaintiff, Kimberly Nealis, is an adult natural person residing at 1406 Moose Road, Kannapolis, NC 28083

5. Defendant, NCO Financial Systems, Inc. (“Defendant”), at all times relevant hereto, is and was a corporation engaged in the business of collecting debt within the State of North Carolina and the Commonwealth of Pennsylvania with its principal place of business located at 507 Prudential Road, Horsham, PA 19044.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. Beginning on May 29, 2009, Defendant began to call Plaintiff’s home and cell phone from approximately 7 a.m. until 9 p.m. seven days a week collecting a debt which they said was sent to them from Sprint.

8. Defendant, by and through its agents, have called the Plaintiff a “liar” and accused her of not making any attempt to pay off her debt even though Ms. Nealis has tried to explain that she is currently unemployed and having trouble finding employment.

9. Agents of the defendant have made calls asking Plaintiff “When do you plan on getting a job?”, and demanded to know “How are you able to provide for yourself?”.

10. Defendant has not responded to Plaintiff's request for written confirmation of the debt or the full amount that is owed.

11. The Plaintiff has asked for payment options to try and pay down debt, but Defendant and their agents have to date refused to make any optional arrangements, demanding payment be made in full.

12. Plaintiff has been asked for her bank account and routing information or a valid credit card number to use for payment.

13. Agents for the Defendant have asked Ms. Nealis to ask her family members and/or friends for the money to pay off her debt.

14. Defendant's agents have discussed this matter with other people living in the household when they answer the telephone informing them of Plaintiff's personal debt.

15. The Plaintiff continues to receive harassing and abusive calls until the filing of this complaint.

16. The Defendant acted in a false, deceptive, misleading and unfair manner when they engaged in conduct the natural consequence of which is to harass, oppress or abuse such person in connection with the collection of a debt.

17. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

18. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees, who were acting within the scope and course of their employment, and under the direct supervision and control of Defendant herein.

19. At all times pertinent hereto, the conduct of Defendant as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

20. As a result of Defendant's conduct, Plaintiff has sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and he will continue to suffer same for an indefinite time in the future, all to his great detriment and loss.

COUNT 1 - FDCPA

21. The above paragraphs are hereby incorporated herein by reference.

22. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a "debt" defined by 15 U.S.C. § 1692a(5).

23. The foregoing acts and omissions constitute violations of the FDCPA, including, but not limited to, violations of §§ 1692c(a)(1), d, d(5), d(6), e, e(2), e(8), e(10), e(11), f and g.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant, NCO Financial Systems, Inc. for the following:

a. Declaratory judgment that Defendant's conduct violated the FDCPA and declaratory and injunctive relief for the Defendant's violations of the state Act.

- b. Actual damages;
- c. Statutory damages pursuant to 15 U.S.C. § 1692k;
- d. Reasonable attorney's fees and litigation expenses, plus costs of suit;
- e. Such addition and further relief as may be appropriate or that the interests of justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

WARREN & VULLINGS, LLP

Date: July 3, 2009

BY: /s/Bruce K. Warren

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